IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAKOTA RHODES,

Plaintiff

v. Case No.: 3:14-cv-00439

XCORP, INC.,
d/b/a BRIGHTSTAR HEALTHCARE,

Defendant
____/

ORIGINAL COMPLAINT
AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, DAKOTA RHODES, by and through her undersigned counsel and sues the Defendant, XCORP, INC. d/b/a BRIGHTSTAR HEALTHCARE, and in support thereof states the following:

1. Plaintiff brings this action for minimum wage and overtime compensation as well as other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq.* ("FLSA").

2. Plaintiff is an individual residing in Texas who worked for Defendant from July to October of 2013 as a Licensed Vocational Nurse (LVN).

3. Defendant is a corporation formed under the laws of the State of Texas that at all times pertinent to this Complaint maintained a business in Texas, *viz.*, a staffing agency for home health care services.

4. This Court enjoys federal question jurisdiction under 28 U.S.C. § 1331, since this claim arises wholly under federal law, the FLSA. This Court also enjoys jurisdiction under the

private right of action created by the FLSA, 29 U.S.C. § 216(b). At all times pertinent to this Complaint, Defendant, operating a franchise of a nationwide company (BrightStar Health Care), was engaged in interstate commerce. Additionally, Plaintiff was individually engaged in interstate commerce, and, as an LVN regularly handled goods that have been moved in and produced in such commerce as she did her work as an LVN, work that was at the core of Defendant's business. Venue is proper in this district under 28 U.S.C. § 1391 since the material facts that are the subject of this Complaint occurred in the Northern District of Texas.

5. Throughout Plaintiff's employment with Defendant, Plaintiff worked over 40 hours per week, typically at least 50-60 hours per week.

6. Defendant failed to pay Plaintiff one and one-half times her regular rate of pay for the overtime hours she worked.

7. Defendant did not pay Plaintiff anything at all for the last pay period of her employment under Defendant.

COUNT 1: MINIMUM WAGE

8. The acts described in the preceding paragraphs violate the Fair Labor Standards Act, which prohibits the denial of minimum wage compensation for all hours worked in a workweek. *See* 29 U.S.C. § 206.

9. As a result of Defendants' unlawful conduct, Plaintiff is entitled to actual and compensatory damages equal to the unpaid minimum wage owed.

12. Plaintiff seeks an award of liquidated damages equal to the unpaid minimum wage owed. *See* 29 U.S.C. § 216(b).

13. Plaintiff also seeks compensation for out of pocket expenses and costs of court incurred in this action, as well as reasonable and necessary attorneys' fees. *See id.*

COUNT 2: OVERTIME

14. The acts described in the preceding paragraphs also violate the Fair Labor Standards Act's provisions requiring overtime compensation for hours worked in excess of forty per workweek. *See* 29 U.S.C. § 207.

15. Defendant willfully denied Plaintiff's right to overtime compensation under the FLSA, having recorded the hours worked by Plaintiff in excess of forty per workweek, aware of the requirements of the FLSA, and yet failing to pay overtime compensation for such work.

16. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime which was not paid and which should have been paid.

17. Plaintiff further seeks liquidated damages as a result of Defendant's willful failure and refusal to pay overtime in violation of Section 7 of the FLSA, 29 U.S.C. § 207.

18. Plaintiff also seeks compensation of the out of pocket expenses and costs of court incurred in this action, as well as reasonable and necessary attorneys' fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

1. The Court assume jurisdiction of this cause and that Defendant be cited to appear;

2. The Court hold Defendant liable and award the damages described above to Plaintiff;

3. The Court award reasonable and necessary attorney's and expert fees and costs;

4. The Court award Plaintiff pre- and post-judgment interest at the highest rates allowed.

Plaintiff further prays for any such other relief as the Court may find proper, whether at law or in equity.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

ROSS LAW GROUP, P.C.

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